

32-05

3/2/05

Attorney Docket No. HTEC-008/04US

PATENT

Express Mail Label No.: EV 526723013US
Date of Deposit: February 28, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of James R. MAULT

Serial No.: 10/712,760

Examiner: Not Yet Assigned

Confirmation No.: 7394

Art Unit: 3736

Filed: November 12, 2003

For: **METABOLIC CALORIMETER EMPLOYING RESPIRATORY GAS ANALYSIS**

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §1.97(b)**

In accordance with the duty of disclosure set forth in 37 C.F.R. §1.56, Applicant(s) hereby submits the following information in conformance with 37 C.F.R. §§1.97 and 1.98.

- ☐ Pursuant to 37 C.F.R. §1.98, a copy of each document cited in the attached Form PTO/SB/08 is enclosed.
- ☒ No copies of the publications listed on the attached Form PTO/SB/08A are being provided pursuant to 37 C.F.R. §1.98(d) because the publications were previously cited by or submitted to the Office in prior Application Serial No. 10/128,105 to which the above-identified application claims priority under 35 U.S.C. §120.
- ☒ No copies of any U.S. patents or U.S. patent application publications listed on the attached Form PTO/SB/08A are being provided pursuant to 37 C.F.R. §1.98 because this application was filed after June 30, 2003.
- ☐ Publication(s) ___ listed on the attached Form PTO/SB/08A were cited in a foreign search or examination report corresponding to ___ application serial no. ___ and mailed on ___.

- ☐ Enclosed is a copy of a non-English publication(s) _____. Pursuant to §609 of the M.P.E.P., Applicant submits the attached foreign search or examination report, which cites such non-English language publication(s).
- ☐ Enclosed is a copy of a non-English publication(s) _____. English language publication _____ (copy enclosed) claims priority from this non-English publication.
- ☐ Enclosed is an explanation of non-English publication(s) _____ for which an English translation is not available.
- ☐ Enclosed is an English translation of non-English publication(s) _____ cited in the attached Form PTO/SB/08A.
- ☐ Enclosed is a copy of pending patent Application Serial No. _____.

This Information Disclosure Statement is filed within any one of the following time periods:


- ☐ within three months from the filing date of this national application other than a CPA under 37 C.F.R. § 1.53(d);
- ☐ within three months from the date of entry of the national stage as set forth in 37 C.F.R. §1.491 in this international application;
- ☒ before the mailing date of a first office action on the merits; or
- ☐ before the mailing of a first office action after the filing of a request for continued examination under 37 C.F.R. § 1.114.

It is respectfully requested that the Examiner consider the above-noted information and return an initialed copy of the attached Form PTO/SB/08A to the undersigned.

Dated: February 28, 2005

Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

Respectfully submitted,
COOLEY GODWARD LLP

By: 
Cliff Z. Liu
Reg. No. 50,834

Attorney Docket No. HTEC-008/04US

PATENT

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INFORMATION DISCLOSURE STATEMENT TRANSMITTAL

Enclosed are the following documents:

1. Information Disclosure Statement Under 37 C.F.R. 1.97(b) (2 pages);
 2. Form PTO/SB/08A (4 pages); and
 3. A return receipt postcard.
- [X] In accordance with 37 C.F.R. §1.97(b), no additional fee for submission of the IDS is required.
- [] In accordance with 37 C.F.R. §1.97(c), also enclosed is:
- [] the fee of \$180.00 as set forth in 37 C.F.R. §1.17(p); or
 - [] a statement as specified in 37 C.F.R. §1.97(e).
- [] In accordance with 37 C.F.R. §1.97(d), a statement as specified in 37 C.F.R. § 1.97(e) and the fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) are also enclosed.
- [] Check No. _____ in the amount of \$____.00 for the total fee is attached.

☐ Please charge \$___ to Deposit Account No. (PA) 03-3117 for the total fee.
This paper is being submitted in duplicate.


The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. (PA) 03-3117.

Dated: February 28, 2005

Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

Respectfully submitted,
COOLEY GODWARD LLP

By:



Cliff Z. Liu
Reg. No. 50,834

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+

PTO/SB/08A (08-00)



Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 4

Complete if Known

Application Number	10/712,760
Filing Date	November 12, 2003
First Named Inventor	James R. Mault
Group Art Unit	3736
Examiner Name	Not Yet Assigned
Attorney Docket Number	HTEC-008/04US

PTO/SB/08A (08-00)

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code ² (if known)		
	P 1	2,630,798		White <i>et al.</i>	03-10-1953
	P 2	2,826,912		Kritz	03-18-1958
	P 3	2,831,348		Kritz	04-22-1958
	P 4	2,838,399		Vogel, Jr.	06-10-1958
	P 5	2,869,357		Kritz	01-20-1959
	P 6	2,911,825		Kritz	11-10-1959
	P 7	2,920,012		Sanders <i>et al.</i>	01-05-1960
	P 8	3,212,684		Svensson <i>et al.</i>	10-19-1965
	P 9	3,220,255		Scranton <i>et al.</i>	11-30-1965
	P 10	3,250,270		Bloom	05-10-1966
	P 11	3,306,283		Arp	02-28-1967
	P 12	3,523,529		Kissen	08-11-1970
	P 13	3,527,205		Jones	09-08-1970
	P 14	3,681,197		Smith	08-01-1972
	P 15	3,725,658		Stanley, <i>et al.</i>	04-03-2004
	P 16	3,726,270		Griffis <i>et al.</i>	08-10-1973
	P 17	3,738,169		Courty	06-12-1973
	P 18	3,799,149		Rummel <i>et al.</i>	03-26-1974
	P 19	3,814,091		Henkin	06-04-1974
	P 20	3,834,375		Sanctuary <i>et al.</i>	09/10-1974
	P 21	3,895,630		Bachman	07-22-1975
	P 22	3,938,551		Henkin	02-17-1976
	P 23	3,962,917		Terada	06-15-1976
	P 24	3,979,480		Radici <i>et al.</i>	09-07-1976
	P 25	4,003,396		Fleischmann	01/18-1977
	P 26	4,051,847		Henkin	10-04-1977
	P 27	4,078,554		Le Maitre <i>et al.</i>	03-14-1978
	P 28	4,186,735		Henneman <i>et al.</i>	02-05-1980
	P 29	4,188,946		Watson <i>et al.</i>	02-19-1980
	P 30	4,197,857		Osborn	04-15-1980
	P 31	4,200,094		Gedeon <i>et al.</i>	04-29-1980
	P 32	4,211,239		Raemer <i>et al.</i>	07-08-1980
	P 33	4,221,224		Clark	09-09-1980
	P 34	4,230,108		Young	10-28-1980
	P 35	4,341,867		Johansen	07-27-1982
	P 36	4,359,057		Manzella	11-16-1982
	P 37	4,368,740		Binder	01-18-1983
	P 38	4,386,604		Hershey	06-07-1983
	P 39	4,425,805		Ogura, <i>et al.</i>	01-17-1984
	P 40	4,440,177		Anderson <i>et al.</i>	04-03-1984

¹ Unique citation designation number.

² See attached Kinds of U.S. Patent Documents.

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				<i>Complete if Known</i>	
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				First Named Inventor	James R. Mault
				Group Art Unit	3736
				Examiner Name	Not Yet Assigned
Sheet	2	of	4	Attorney Docket Number	HTEC-008/04US

	P 41	4,444,201		Itoh	04-24-1984
	P 42	4,463,764		Anderson <i>et al.</i>	08-07-1984
	P 43	4,572,208		Cutler <i>et al.</i>	02-25-1986
	P 44	4,598,700		Tamm	07-08-1986
	P 45	4,608,995		Linnarsson <i>et al.</i>	09-02-1986
	P 46	4,619,269		Cutler <i>et al.</i>	10-28-1986
	P 47	4,648,396		Raemer	03-10-1987
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	P 49	4,753,245		Gedeon	06-28-1988
	P 50	4,756,670		Arai	07-12-1988
	P 51	4,781,184		Fife	11-01-1988
	P 52	4,796,639		Snow <i>et al.</i>	01-10-1987
	P 53	4,850,371		Broadhurst <i>et al.</i>	07-25-1989
	P 54	4,856,531		Merilainen	08-15-1989
	P 55	4,909,259		Tehrani	03-20-1990
	P 56	4,914,959		Mylvaganam <i>et al.</i>	04-10-1990
	P 57	4,917,108		Mault	04-17-1990
	P 58	4,955,946		Mount <i>et al.</i>	09-11-1990
	P 59	4,986,268		Tehrani	01-22-1991
	P 60	4,998,018		Kurahashi <i>et al.</i>	03-05-1991
	P 61	5,022,406		Tomlinson	06-11-1991
	P 62	5,038,773		Norlien <i>et al.</i>	08-13-1991
	P 63	5,038,792		Mault	08-13-1991
	P 64	5,040,541		Poppendiek	08-20-1991
	P 65	5,042,500		Norlien <i>et al.</i>	08/27/1991
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	P 70	5,069,220		Casaprie <i>et al.</i>	12-03-1991
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	P 73	5,095,900		Fertig <i>et al.</i>	03-17-1992
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	P 77	5,178,155		Mault	01-12-1993
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	P 83	5,293,875		Stone	03-15-1994
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	P 85	5,303,712		Van Duren	04-19-1994
	P 86	5,309,921		Kisner <i>et al.</i>	05-10-1994
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	P 92	5,402,796		Packer <i>et al.</i>	04-04-1995
	P 93	5,419,326		Harmoncourt	05-30-1995
	P 94	5,425,374		Ueda <i>et al.</i>	06-20-1995
	P 95	5,450,193		Carlsen <i>et al.</i>	09-12-1995

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				<i>Complete if Known</i>	
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				Group Art Unit	3736
				Examiner Name	Not Yet Assigned
Sheet	2	of	4	Attorney Docket Number	HTEC-008/04US

	P 96	5,468,961		Gradon <i>et al.</i>	11-21-1995
	P 97	5,503,151		Harmoncourt <i>et al.</i>	04-02-1996
	P 98	5,517,313		Colvin	05-14-1996
	P 99	5,570,697		Walker <i>et al.</i>	11-05-1996
	P 100	5,632,281		Rayburn	05-27-1997
	P 101	5,632,958		Kane, <i>et al.</i>	05-27-1997
	P 102	5,645,071		Harmoncourt, <i>et al.</i>	07-08-1997
	P 103	5,647,370		Harmoncourt	07-15-1997
	P 104	5,676,132		Tilotson <i>et al.</i>	10-14-1997
	P 105	5,705,735		Acorn	01-06-1998
	P 106	5,754,288		Yamamoto <i>et al.</i>	05-19-1998
	P 107	5,789,660		Kofoed <i>et al.</i>	08-04-1998
	P 108	5,796,009		Delsing	08-18-1998
	P 109	5,800,360		Kisner <i>et al.</i>	09-01-1998
	P 110	5,816,246		Mirza	10-06-1998
	P 111	5,831,175		Fletcher-Haynes	11-03-1998
	P 112	5,834,626		De Castro <i>et al.</i>	11-10-1998
	P 113	5,836,300		Mault	11-17-1998
	P 114	5,922,610		Alving <i>et al.</i>	07-13-1999
	P 115	5,932,812		Delsing	08-03-1999
	P 116	5,957,858		Micheels <i>et al.</i>	09-28-1999
	P 117	6,010,459		Silkoff <i>et al.</i>	01-04-2000
	P 118	6,044,843		O'Neill <i>et al.</i>	04-04-2000
	P 119	6,162,180		Miesel <i>et al.</i>	12-19-2000
	P 120	6,174,289		Binder	01-16-2001
	P 121	6,302,851		Gedeon	10-16-2001
	P 122	6,402,698	B1	Mault	06-11-2002
	P 123	6,645,158		Mault	11-11-2003

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	T ⁴
		Office ¹	Number ² (if known)	Kind Code ³			
	F 1	EP	0 459 647 A2			00-00-1991	
	F 2	DE	198 10 476			09-00-1998	
	F 3	GB	2,323,292			09-00-1998	
	F 4	WO	WO 96/40340			12-00-1996	
	F 5	WO	0 712 638 A1			12-00-1995	

Examiner Signature		Date Considered	
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¹ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3).

² For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.

³ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible.

⁴ Applicant is to place a check mark here if English language Translation is attached.

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PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
				Application Number	10/712,760
				Filing Date	November 12, 2003
				First Named Inventor	James R. Mault
				Group Art Unit	3736
Examiner Name	Not Yet Assigned				
Sheet	4	of	4	Attorney Docket Number	HTEC-008/04US

OTHER – NON PATENT LITERATURE DOCUMENTS					
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.			T ²
	D 1	MEDICAL PROGRESS THROUGH TECHNOLOGY, vol. 9, no. 1, 1982, BERLIN (D), pages 27-32, R. Salminen <i>et al.</i> , "Computerized Breath-by-Breath Analysis of Respiratory Variables During Exercise."			
	D 2	BRITISH JOURNAL OF ANAESTHESIA, vol. 49, 1977 LONDON (GB) pages 575-587, J.A. Bushman <i>et al.</i> "Closed Circuit Anaesthesia."			
	D 3	IEEE TRANSACTIONS ON BIOMEDICAL ENGINEERING, vol. 35, No. 9, September, 1988, pages 653-659, Capek <i>et al.</i> , "Noninvasive Measurement of Cardiac Output Using Partial CO2 ReBreathing."			
	D 4	CLINICS IN CHEST MEDICINE (Review), vol. 10, 1989, pages 255-264, Heigenhauser <i>et al.</i> , "Measurement of Cardiac Output by Carbon Dioxide Rebreathing Methods."			
	D 5	Determination of Nitric Oxide Levels by Fluorescence Spectroscopy, Gabor G. and Allon N. in BIOCHEMICAL PHARMACOLOGICAL AND CLINICAL ASPECTS OF NITRIC OXIDE, edited by B.A. Weissman <i>et al.</i> , Plenum Press, New York, 1995, page 57.			

Examiner Signature		Date Considered	
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¹ Unique citation designation number.

² Applicant is to place a check mark here if English language Translation attached.